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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,874	10/22/2001	Neil Hepworth	4366-43	4659
48500	7590	03/29/2007		
SHERIDAN ROSS P.C. 1560 BROADWAY, SUITE 1200 DENVER, CO 80202			EXAMINER TRUONG, LAN DAI T	
			ART UNIT	PAPER NUMBER
			2152	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/29/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/028,874	HEPWORTH ET AL.	
	Examiner	Art Unit	
	Lan-Dai Thi Truong	2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01/19/2007</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is response to communications: application, filed 10/22/2001; amendment filed 01/16/2007. Claims 31-56 are pending; claims 1-30 are cancelled; claims 31-32, 40-41, 48, 51 are amended

Response to Arguments

2. In response to Applicant's amendments of claims 31, 40 and 48 with respect to replacing the term memberships by information; the previous 35 USC § 112, first paragraph, rejection is withdrawn

3. In response to applicant's arguments with respect to the Wan fails to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., tracking active RTCP sessions to pair up the performance information with the session) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

4. Regarding to Applicant's arguments with respect to the Pruthi does not teach the use of first and seconds of data structures to contain network performance information respecting unidentical and identified sessions are not persuasive; Examiner respectively reminds applicant that the claimed limitations do not clearly disclose if the first and seconds of data structures are identical/ or different/ or separate to each other; So they could be the same one; the Pruthi clearly

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discloses method for building “communication sessions performances records” those share functionality with “data structures containing network performance information” as claimed, see ([0046]-[0048]; [0065]-[0066]; claim 30; [0007]; [0011]; 0015]; [0031]; [0033]; [0036]-[0037]; [0041])

5. In response to applicant's argument that the Pruthi fails to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., dual unicasting in which separate packets are transmitting to other endpoint and a performance monitor) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

6. Regarding to Applicants' arguments with respect to distinguishes between the Fuh and claimed limitations are not persuasive; Fuh used to reject shortcoming of the Wan and the Pruthi such as determining if the network address does not included in the data structure, then updating new entry into the data structure; Fuh teaches method for determining if IP address exists in the record, if not updating new IP address into the record for future use, (Fuh: column 3, lines 26-67; column 4, lines 1-60)

Claim rejections-35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 31-56 are rejected under 35 U.S.C 103(a) as being un-patentable over Wan et al. (U.S. 6,529,475) in view of Pruthi et al. (U.S. 2002/0105911) and further in view of Fuh et al. (U.S. 6,463,474)

Regarding to claim 31:

Wan discloses the invention substantially as claimed, including a method, which can be implemented in a computer hardware or software code for identifying a corresponding session for a packet, comprising:

In a first session, a first endpoint transmitting first and second sets of packets, respectively, to a session monitor and a second endpoint; wherein the first and second sets of packets have differing information; each packet is used for determining network performance information: (Wan discloses a plurality of network monitors scan through RTCP packets exchanging between computers. The RTCP packets provide information on the traffic flow which is extracted by the monitors and forwarded to central server for analyzing: column 4, lines 61-67; column 6, lines 1-57; figure 2, items 104, 108, 110)

A packet comprising at least the network address and session identifier associated with the first endpoint: (Wan discloses Real Time Control Protocol (RTCP) is utilized for monitoring quality of service, conveys information about the session participants; Although Wan does not explicitly disclose RTCP packet comprising at least the network address and session identifier; however this feature is deemed to be inherent to the RTCP packets: column 4, lines 61-67; column 6, lines 1-57; column 5, lines 49-54; column 8, lines 6-19)

The first set of data structures/ and second set of data structures comprising active session entries, each entry in the first set of data structures having at least network addresses for each of the endpoints to the corresponding session: (Wan discloses method for calculating network performance statistics by the congestion RTCP monitors, then the calculated sessions performance problems will be reported to “centralized server” which shares functionality with “data structures” as claimed to compile the overall picture about the network congestion statuses; although Wan does not explicitly disclose including session ids/ and network addresses in the over picture of network performances in the centralized server, but it would have been obvious to a person of ordinary skill in the art to know that session ids/ and network addresses must be included in the network performance reports: column 8, lines 6-19)

However, Wan does not explicitly disclose method for determining whether at least one of the first endpoint's network address and session identifier correspond to an active session entry recorded in a first set of data structures; updating the corresponding entry associated with the at least a first packet to include the network performance information associated with the at least a first packet:

In analogous art, Pruthi discloses a network monitor for monitoring communication sessions between network computers; the network monitor includes a record generator generates record indexes for “communication sessions record” which is equivalent to “set of data structure.” Each entry of the Pruthi’s communication sessions record includes a plurality of element such as record index, source address, destination address...etc. The recorder generator reads the previously stored indexed record to determine if existing common previous stored indexed record, then it combines a new record updated network performance information into the

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previous stored indexed record. In Pruthi's system, the network monitor may recursively collect and analyze network performance data based on previously generated stored packets: ([0046]-[0048]; [0065]-[0066]; [0040])

However, Wan-Pruthi does not explicitly disclose method for determining if the network address does not included in the data structure, then updating new entry into the data structure

In analogous art, Fuh discloses method for determining if IP address exists in the record, if not updating new IP address into the record for future use: (column 3, lines 53-64; abstract)

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Pruthi's ideas of determining if there is any common index between new record and previous recorded indexed record in order to update communication session record located at network monitor and Fuh's ideas of detecting failing of IP address to record in order to adding new IP address into the record for future use with Wan's system in order to provide an efficient network monitoring system, see (Pruthi: [0015])

Regarding to claim 40:

This claim is rejected under rationale of claim 31

Regarding to claims 48, 51:

Wan-Pruthi-Fuh discloses a method as discuss in claim 31 which further includes a session monitor operable to track network performance for a plurality of sessions: (Pruthi discloses network monitors for monitoring sessions of transmitting RTCP packets: abstract, lines 1-5; [0008], lines 1-4; [0031]; [0036]-[0047])

Void data: Pruthi discloses voice data is also supported by the RTCP packet monitor: (column 2, lines 20-25)

Regarding to claims 54, 49-50, 52-53:

Those claims are rejected under rationale of claims 31, 48 and 51

Regarding to claims 32- 35, 38-39, 42-44 and 47:

Those claims are rejected under rationale of claims 31 and 40

Regarding to claim 36-37 and 45-46:

In addition to rejection in claims 32 and 40, Wan-Pruthi-Fuh further discloses the performance information comprise statistics respecting at least one of jitter, packet loss, and round-trip time, see (Pruthi discloses “round-trip delays” which is equivalent to “round-trip time”: [0033])

Regarding to claim 41:

In addition to rejection in claim 40, Wan-Pruthi-Fuh further discloses media information: Wan discloses monitored information in his system includes multimedia information exchanging in the network: (abstract)

Regarding to claim 56:

In addition to rejection in claim 54, Wan-Pruthi-Fuh further discloses the contents of the session packet are defined by the Real Time Control Protocol, see ([0054]; [0056])

Regarding to claim 55:

In addition to rejection in claim 54, Wan-Pruthi-Fuh further discloses a first session identifier associated with the first participant, see (Pruthi discloses indexing a record based on type or property such as “end-user ID” which is equivalent to “first participant”: [0048])

A second session identifier associated with the second participant, see (“end-user ID” which is equivalent to “second participant”: [0048])

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents and publications are cited to further show the state of the art with respect to "Real time control protocol session matching": 20030206523; 20020143971; 7003574; 6678250; 6760774; 20030033428; 7046646; 6058163; 20020091843; 20030016664

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusions


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan-Dai Thi Truong whose telephone number is 571-272-7959. The examiner can normally be reached on Monday- Friday from 8:30am to 5:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob A. Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

03/26/2007



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SUPERVISORY PATENT EXAMINER